

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY
COUNCIL MEETING HELD JUNE 28, 2016**

CALL TO ORDER

At 7:08 p.m. Mayor Woodruff called the meeting to order and stated adequate notice of this meeting has been provided by posting the same on the bulletin board of Town Hall and forwarding a copy to the Courier News and Star Ledger at least forty-eight hours prior to this meeting, all in accordance with the Open Public Meetings Act.

ROLL CALL

Mr. D'Aquila, Mr. Delia, Mr. Faecher, Mr. Pirone and Mayor Woodruff answered present. Mrs. Kingsley and Mr. Pastore were absent. Also present were Township Attorney Joseph Sordillo, Township Administrator John Bussiculo and Township Clerk Ana Minkoff.

FLAG SALUTE

Mayor Woodruff asked everyone present to stand as he led the Flag Salute.

PROCLAMATION - Governor Livingston High School Varsity Baseball Team

The Mayor asked Coach Roof to come forward. The Mayor spoke about the GL Baseball Team realizing the County Championship for the first time and elaborated. The Mayor stated that this was a great week for the GL program under Coach Roof as two former players have been drafted and/or signed and elaborated. Members of the Baseball team, Managers, Coach Roof and the Assistant Coaches were called to the front of the room and were awarded certificates.

The Mayor stated that Mr. Ted Romankow, who headed the Memorial Park Committee, wanted to address something.

Mr. Romankow thanked the members of the public for their moral and financial support to make the Veterans Park a reality and elaborated. He spoke about the beginning conversations which led to the Park renovation efforts. Mr. Romankow spoke about the efforts of the Renewal Committee. Mr. Romankow stated that he hoped members of the Committee could meet with the Administration in the near future to discuss the sharing of the park maintenance. Mr. Romankow thanked specific individuals for their time and effort: Ana Minkoff, John Bussiculo, Mike Marceau and Tom Barton. Mr. Romankow announced that the Committee would like to present a memento of this occasion to the aforementioned individuals as well as members of the Township Council. He stated that he was proud to say that no Township funds were used to rebuild the Memorial and elaborated. Mr. Romankow stated that their hearts and prayers are with those people who gave so much to this country and elaborated about the people who gave and helped with the Memorial preparation. He also spoke about Mr. Leon Ciferni's recent passing, his life and his contribution towards both Berkeley Heights and the Park. Mr. Romankow asked for Committee donations for the Maintenance Fund. Mr. Romankow presented the commemorative coins for Council and the aforementioned four Township employees to Mr. John Bussiculo. The Mayor suggested the mounting of one or two coins for the new building. Mr. Romankow spoke about future Committee work regarding an appropriate place for the placement of World War II veterans' names.

CONFERENCE SESSION –

Mr. D'Aquila – Referencing last meeting's discussion, Mr. D'Aquila stated that American Water did come back for pave work. Mr. Bussiculo elaborated.

Mr. Pirone and Mr. Delia stated they had nothing to report for Conference Session.

Mr. Faecher - Mr. Faecher stated that he would give an update on Affordable Housing. He noted that the Mayor's Roundtable, which occurred the previous Thursday, focused almost exclusively on Affordable Housing. Mr. Faecher spoke about how this meeting information can be accessed. Mr. Faecher stated that he prefaces all his remarks that we are in the midst of litigation and must be guarded in our commentary. Mr. Faecher gave an update on meetings and conversations with Senator Sweeney, Senator Kean, Assemblyman Bramnick, Legislative Affairs, and Senator Kip Batemen. Mr. Faecher stated that he doesn't foresee any legislation being introduced and voted on prior to our trial date. He noted that settlement discussions with the plaintiff have not come to fruition. Mr. Faecher noted that there are two prongs to this: 1) we continue to be optimistic that there may be a settlement and 2) if there isn't a settlement immediately, we need to proceed with trial preparation and elaborated.

The Mayor spoke about discussions with Council people in other municipalities and noted that our frustration is shared by multiple towns in this State and elaborated. The Mayor spoke about a recent phone call he received from the Governor's representative regarding the Governor's plan on school funding. The Mayor stated he brought up the subject of Affordable Housing with the Governor's representative and elaborated.

Mr. Faecher spoke about the import of litigating an issue like this and elaborated on the likelihood that whatever party is on the short end of the judge of the court's decision will appeal. He noted that these issues are typically decided at the Supreme Court level.

TOWNSHIP COUNCIL REPORTS

Mr. D'Aquila – Mr. D'Aquila congratulated the Chamber of Commerce for a great fair this past Sunday.

Mr. Delia – Mr. Delia thanked the Street Fair volunteers and wanted to especially thank Dr. Pat Smith. Mr. Delia asked if Mr. Bussiculo knew about the pond in the absence of Mr. Bocchino. Mr. Bussiculo responded.

Mr. Faecher – In regards to the Fair, Mr. Faecher stated that it was a well done event.

Mr. Pirone – Mr. Pirone had nothing to report.

Mayor Woodruff – Mr. Woodruff spoke about the fair and noted it was a great day.

Mr. Bussiculo – Mr. Bussiculo presented updates from these Township Departments: Public Works, Recreation, Engineering, Public Works, Police, and Zoning. He also spoke about Union County collaboration (Mr. Joe Graziano) with the Columbia culvert, resulting in substantial savings to the Township. Mr. Bussiculo also reported on a meeting with New Jersey American Water. Mr. Bussiculo gave a de-snagging update. He spoke about our recent application with Union County for a Senior Van. Mr. Bussiculo stated that if it was okay with Council, they would begin exploring an upcoming Electric auction.

**Township Council Minutes
Public Meeting – June 28, 2016**

Moved by Mr. D'Aquila to approve the Township Council and Administration Reports, seconded by Mr. Pirone and upon roll call vote:

Ayes: Mr. D'Aquila, Mr. Delia, Mr. Faecher and Mr. Pirone
Nays: None
Abstain: None
Absent: Mrs. Kingsley and Mr. Pastore

APPROVAL OF MINUTES

Moved by Mr. Pirone to approve the following minutes, seconded by Mr. Faecher and upon roll call vote:

Public Meeting – June 14, 2016

Ayes: Mr. D'Aquila, Mr. Delia, Mr. Faecher and Mr. Pirone
Nays: None
Abstain: None
Absent: Mrs. Kingsley and Mr. Pastore

HEARING ON AGENDA ITEMS ONLY

Moved by Mr. Faecher to open the Hearing on Agenda Items Only, seconded by Mr. D'Aquila and upon roll call vote:

Ayes: Mr. D'Aquila, Mr. Delia, Mr. Faecher and Mr. Pirone
Nays: None
Abstain: None
Absent: Mrs. Kingsley and Mr. Pastore

The Mayor stated that in the absence of Mrs. Kingsley, they would go with the egg timer.

Mr. Hendrik Raaymakers of 180 Timber asked if it was possible to get a transcript of the Mayor's Roundtable. The Mayor responded. Discussion ensued. Referencing the Fair, Mr. Raaymakers asked if it was possible to have more events and elaborated. The Mayor responded. In regards to the Resolution about Lot 702, Mr. Raaymakers asked about the wording "units being set aside for low and moderate income housing" and "very low, low and moderate income." Mr. Sordillo responded. Discussion ensued (Mr. Faecher, Mr. Sordillo and Mr. Raaymakers.)

With regards to redevelopment, Mr. Tom Foregger of 14 Dorsett Road asked 1) why do we do this and 2) why doesn't the property owner just redevelop the property. The Mayor and Mr. Sordillo responded. Discussion ensued (Mr. Sordillo, Mr. Foregger and Mr. Faecher.) In regards to the upcoming lawsuit, Mr. Foregger asked what the issue to be resolved is. Mr. Faecher responded. Discussion ensued (Mr. Foregger, the Mayor and Mr. Faecher.)

Mr. Tom Maciejewski of 40 Ralph Place asked whether the hotel was going to be built. The Mayor responded. In regards to Affordable Housing, Mr. Maciejewski asked where the 85% was coming from. Mr. Faecher responded. Discussion ensued (Mr. Maciejewski and the Mayor.) Mr. Maciejewski asked if tax benefits for property owners who rent has been looked into. The Mayor responded. Mr. Faecher responded. Further discussion ensued (Mr. Maciejewski, the Mayor and Mr. Faecher.)

**Township Council Minutes
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In terms of the likely appeal, Mr. John Sincaglia of 22 Robbins Avenue asked if other intervenors would help us with the legal costs. Mr. Faecher responded. The Mayor responded. In regards to Resolution Number 6, Mr. Sincaglia asked 1) what we get out of this and 2) what are our obligations with the Cooperative Agreement with the County. Mr. Faecher responded.

Mr. Stephen Yellin of 130 Dogwood Lane stated that his understanding was that once wetlands and similar environmental factors are taken away, we only have 4 and half buildable acres in the community. The Mayor responded. He asked if we have hired legal counsel for the coming trial. Mr. Faecher responded. Mr. Stephen Yellin strongly encouraged the legal team, if they haven't done so already, to look at the constitutional basis with the Mount Laurel decisions. The Mayor responded.

Hearing no voices, moved by Mr. Faecher to close the Hearing on Agenda Items Only, seconded by Mr. Pirone and upon roll call vote:

Ayes: Mr. D'Aquila, Mr. Delia, Mr. Faecher and Mr. Pirone
Nays: None
Abstain: None
Absent: Mrs. Kingsley and Mr. Pastore

RESOLUTIONS

Mr. Delia introduced the following resolution:

1. Resolution approving Bill List dated June 28, 2016 in the amount of \$414,807.97.

Moved by Mr. Delia to approve resolution #1, seconded by Mr. D'Aquila and carried. Mr. Delia asked about Days of Realization. The Mayor responded. Discussion ensued with a member of the public.

Upon roll call vote:

Ayes: Mr. D'Aquila, Mr. Delia, Mr. Faecher and Mr. Pirone
Nays: None
Abstain: None
Absent: Mrs. Kingsley and Mr. Pastore

Mr. Faecher introduced the following resolution:

2. Resolution authorizing the Planning Board to undertake a preliminary investigation, to determine whether the properties identified as Block 702, Lot 17, Block 702, Lot 18, the Sherman Avenue Right-of -Way, the Lone Pine Drive Right-of -Way, the Sherman Avenue Easement/Right-of-Way (located on a portion of Block 702, Lots 13, 14, 15, and 17) is a redevelopment area according to the criteria set forth in N.J.S.A. 40A:12A-5.

**Township Council Minutes
Public Meeting – June 28, 2016**

Moved by Mr. Faecher to approve resolution #2, seconded by Mr. Pirone and upon roll call vote:

Ayes: Mr. D'Aquila, Mr. Faecher and Mr. Pirone
Nays: Mr. Delia
Abstain: None
Absent: Mrs. Kingsley and Mr. Pastore

Mr. Pirone introduced the following resolution:

3. Resolution consenting to the TWA application, by the Township Engineer, in connection with the approved development of the property identified as Block 610, Lot 8, located along Springfield Avenue.

Moved by Mr. Pirone to approve resolution #3, seconded by Mr. Faecher and carried.

Mr. Delia asked where this was on Springfield Avenue. The Mayor responded. Mr. Bussicula noted that the Township Engineer wasn't present. Ms. Minkoff responded. Mr. Delia stated that the only reason why he questioned it was that 241 feet of pipe was a lot. Consensus was reached that the location was 569 Springfield Avenue.

Upon roll call vote:

Ayes: Mr. D'Aquila, Mr. Delia, Mr. Faecher and Mr. Pirone
Nays: None
Abstain: None
Absent: Mrs. Kingsley and Mr. Pastore

Mr. D'Aquila introduced the following resolution:

4. Resolution approving the renewal application of the Alcoholic Beverage Licenses for a period of one (1) year expiring June 30, 2017.

Moved by Mr. D'Aquila to approve resolution #4, seconded by Mr. Pirone and upon roll call vote:

Ayes: Mr. D'Aquila, Mr. Delia, Mr. Faecher and Mr. Pirone
Nays: None
Abstain: None
Absent: Mrs. Kingsley and Mr. Pastore

Mr. Delia introduced the following resolution:

5. Resolution awarding a contract to DLS Contracting, Inc., for improvements to Snyder Avenue in the amount not to exceed \$206,214.75.

Moved by Mr. Delia to approve resolution #5, seconded by Mr. Pirone and carried. The Mayor asked if this is the area which will take this all the way to the top. Mr. Bussicula responded. Mr. Delia asked if the sewers would be done before this gets started. Mr. Bussicula responded. A member of Council asked if we had an idea on timing. Mr. Bussicula responded.

Upon roll call vote:

Ayes: Mr. D'Aquila, Mr. Delia, Mr. Faecher and Mr. Pirone
Nays: None
Abstain: None
Absent: Mrs. Kingsley and Mr. Pastore

Mr. Faecher introduced the following resolution:

6. Resolution authorizing an Agreement with the County of Union to modify the Cooperative Agreement dated June 10, 2014.

Moved by Mr. Faecher to approve resolution #6, seconded by Mr. D'Aquila and upon roll call vote:

Ayes: Mr. D'Aquila, Mr. Delia, Mr. Faecher and Mr. Pirone
Nays: None
Abstain: None
Absent: Mrs. Kingsley and Mr. Pastore

CONSENT AGENDA

All matters listed under Consent Agenda are considered routine by the Township Council and will be enacted upon by one motion; there will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

Mr. Pirone introduced the following resolutions:

- a. Resolution authorizing the release of a Cash Bond in the amount of \$700.00 to Armstrong, Inc. 38 Basking Ridge Road, Millington, NJ for work performed at 59 Emerson Lane.

ADDITION:

- b. Resolution appointing Jeremy Metsky, 442 Mountain Avenue, Berkeley Heights, to the active roster of the Fire Department.

Moved by Mr. Pirone to approve Consent Agenda Resolution #7a through b, seconded by Mr. D'Aquila and upon roll call vote:

Ayes: Mr. D'Aquila, Mr. Delia, Mr. Faecher and Mr. Pirone
Nays: None
Abstain: None
Absent: Mrs. Kingsley and Mr. Pastore

CITIZENS HEARING

Moved by Mr. D'Aquila to open the Citizens Hearing, seconded by Mr. Pirone and upon roll call vote:

Ayes: Mr. D'Aquila, Mr. Delia, Mr. Faecher and Mr. Pirone
Nays: None
Abstain: None
Absent: Mrs. Kingsley and Mr. Pastore

Mr. Rob Walton of Jersey Central Power & Light of 52 Chatham Road in Summit stated he wanted to present an update and specifically spoke about a recent rate increase application with the New Jersey Board of Public Utilities and elaborated.

The Mayor stated that the School Board has agreed to pay half the costs of what we allocate to our officer who is at the school and elaborated.

In regards to Mr. Raaymakers' earlier question about the income limits, Mr. Faecher provided the Affordable Housing 2014 Regional income limits for Region 2 for a family of four. Discussion ensued (Mr. Raaymakers, Mr. Faecher, and Mr. Pirone.) Mr. Raaymaker asked if the Township had considered building their own affordable housing. Discussion ensued (Mr. Raaymaker, Mr. Faecher and the Mayor.)

Mr. Dimitriy Agatanov of 25 Ford Place stated that he wanted to make sure that Council received the petition, signed by over 400 Berkeley Heights residents, who protest against Verizon's plans to build a Cell Tower next to Governor Livingston High School. Mr. Bussiculo and Mr. Pirone responded. Discussion ensued (Mr. Bussiculo, Mr. Agatanov, Mr. Pirone and the Mayor.) Mr. Agatanov asked if it was true that a new municipal website had been built. Mr. Bussiculo responded. Mr. Agatanov asked if there was any way to influence the design of the website. Mr. Bussiculo responded. Mr. Agatanov stated that there were discussions in Facebook's Berkeley Heights Community Forum regarding things that we would like to see. He commented that a lot of people feel that what we currently have is far from being transparent and elaborated. Discussion ensued (Mr. Agatanov, Mr. Bussiculo, the Mayor, and Mr. Faecher.)

Mr. Tom Maciejewski of 40 Ralph Place asked if the specs had been put on line. He stated that it sounds like the people haven't had their input and elaborated. Mr. Bussiculo responded. Mr. Maciejewski asked if there was a spec. Mr. Bussiculo responded. Discussion ensued (Mr. Maciejewski, Mr. Bussiculo, the Mayor, Mr. Faecher and Mr. Pirone.) A resident asked what vendor was selected. Mr. Bussiculo responded.

Mr. Tom Foregger of 14 Dorsett Road asked if we could get a website presentation. Mr. Bussiculo responded.

Hearing no voices, moved by Mr. D'Aquila to close the Citizens Hearing, seconded by Mr. Pirone and upon roll call vote:

Ayes: Mr. D'Aquila, Mr. Delia, Mr. Faecher and Mr. Pirone
Nays: None
Abstain: None
Absent: Mrs. Kingsley and Mr. Pastore

EXECUTIVE SESSION –

- 1. Attorney/Client Privilege- Litigation-Affordable Housing**
- 2. Attorney-Client Privilege- Litigation-Matula v. Berkeley Heights**

Moved by Mr. Faecher to go into Executive Session, seconded by Mr. Pirone and upon roll call vote:
(8:29 p.m.)

Ayes: Mr. D'Aquila, Mr. Delia, Mr. Faecher and Mr. Pirone
Nays: None
Abstain: None
Absent: Mrs. Kingsley and Mr. Pastore

The Mayor reminded all that they would be coming out of Executive Session, only to adjourn.

Moved by Mr. Faecher to go out of Executive Session, seconded by Mr. Pirone and upon roll call vote:
(8:54 p.m.)

Ayes: Mr. D'Aquila, Mr. Delia, Mr. Faecher and Mr. Pirone
Nays: None
Abstain: None
Absent: Mrs. Kingsley and Mr. Pastore

ADJOURNMENT

Moved by Mr. Delia to adjourn, seconded by Mr. Pirone, and upon roll call vote:
(8:55 p.m.)

Ayes: Mr. D'Aquila, Mr. Delia, Mr. Faecher and Mr. Pirone
Nays: None
Abstain: None
Absent: Mrs. Kingsley and Mr. Pastore

Approved: July 12, 2016

**Ana Minkoff
Township Clerk**